

1 AN ACT concerning regulation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Wireless Emergency Telephone Safety Act is
5 amended by changing Sections 5, 10, 17, 35, and 70 as follows:

6 (50 ILCS 751/5)

7 (Section scheduled to be repealed on April 1, 2008)

8 Sec. 5. Purpose. The General Assembly finds and declares it
9 is in the public interest to promote the use of wireless 9-1-1
10 and wireless enhanced 9-1-1 (E9-1-1) service in order to save
11 lives and protect the property of the citizens of the State of
12 Illinois.

13 Wireless carriers are required by the Federal
14 Communications Commission (FCC) to provide E9-1-1 service in
15 the form of automatic location identification and automatic
16 number identification pursuant to policies set forth by the
17 FCC.

18 Public safety agencies and wireless carriers are
19 encouraged to work together to provide emergency access to
20 wireless 9-1-1 and wireless E9-1-1 service. Public safety
21 agencies and wireless carriers operating wireless 9-1-1 and
22 wireless E9-1-1 systems require adequate funding to recover the
23 costs of designing, purchasing, installing, testing, and

1 operating enhanced facilities, systems, and services necessary
2 to comply with the wireless E9-1-1 requirements mandated by the
3 Federal Communications Commission and to maximize the
4 availability of wireless E9-1-1 services throughout the State
5 of Illinois.

6 The revenues generated by the wireless carrier surcharge
7 enacted by this Act are required to fund the efforts of the
8 wireless carriers, emergency telephone system boards,
9 qualified governmental entities, and the Department of State
10 Police to improve the public health, safety, and welfare and to
11 serve a public purpose by providing emergency telephone
12 assistance through wireless communications.

13 It is the intent of the General Assembly to:

14 (1) establish and implement a cohesive statewide
15 emergency telephone number that will provide wireless
16 telephone users with rapid direct access to public safety
17 agencies by dialing the telephone number 9-1-1;

18 (2) encourage wireless carriers and public safety
19 agencies to provide E9-1-1 services that will assist public
20 safety agencies in determining the caller's approximate
21 location and wireless telephone number;

22 (3) grant authority to public safety agencies not
23 already in possession of the authority to finance the cost
24 of installing and operating wireless 9-1-1 systems and
25 reimbursing wireless carriers for costs incurred to
26 provide wireless E9-1-1 services; and

1 (4) provide for a reasonable fee on wireless telephone
2 service subscribers to accomplish these purposes and
3 provide for the enforcement and collection of such fees.

4 (Source: P.A. 91-660, eff. 12-22-99.)

5 (50 ILCS 751/10)

6 (Section scheduled to be repealed on April 1, 2008)

7 Sec. 10. Definitions. In this Act:

8 "Active prepaid wireless telephone" means a prepaid
9 wireless telephone that has been used or activated by the
10 customer during the month to complete a telephone call for
11 which the customer's card or account was decremented.

12 "Emergency telephone system board" means a board appointed
13 by the corporate authorities of any county or municipality that
14 provides for the management and operation of a 9-1-1 system
15 within the scope of the duties and powers prescribed by the
16 Emergency Telephone System Act.

17 "Master street address guide" means the computerized
18 geographical database that consists of all street and address
19 data within a 9-1-1 system.

20 "Mobile telephone number" or "MTN" shall mean the telephone
21 number assigned to a wireless telephone at the time of initial
22 activation.

23 "Prepaid wireless telephone service" means wireless
24 telephone service which is activated by payment in advance of a
25 finite dollar amount or for a finite set of minutes and which,

1 unless an additional finite dollar amount or finite set of
2 minutes is paid in advance, terminates either (i) upon use by a
3 customer and delivery by the wireless carrier of an agreed-upon
4 amount of service corresponding to the total dollar amount paid
5 in advance, or within a certain period of time following
6 initial purchase or activation.

7 "Public safety agency" means a functional division of a
8 public agency that provides fire fighting, police, medical, or
9 other emergency services. For the purpose of providing wireless
10 service to users of 9-1-1 emergency services, as expressly
11 provided for in this Act, the Department of State Police may be
12 considered a public safety agency.

13 "Qualified governmental entity" means a unit of local
14 government authorized to provide 9-1-1 services pursuant to the
15 Emergency Telephone System Act where no emergency telephone
16 system board exists.

17 "Remit period" means the billing period, one month in
18 duration, for which a wireless carrier, other than a prepaid
19 wireless carrier that provides zip code information based upon
20 the addresses associated with its customers' points of
21 purchase, customers' billing addresses, or locations
22 associated with MTNs, as described in subsection (a) of Section
23 17, remits a surcharge and provides subscriber information by
24 zip code to the Illinois Commerce Commission, in accordance
25 with Section 17 of this Act.

26 "Statewide wireless emergency 9-1-1 system" means all

1 areas of the State where an emergency telephone system board
2 or, in the absence of an emergency telephone system board, a
3 qualified governmental entity has not declared its intention
4 for one or more of its public safety answering points to serve
5 as a primary wireless 9-1-1 public safety answering point for
6 its jurisdiction. The operator of the statewide wireless
7 emergency 9-1-1 system shall be the Department of State Police.

8 "Sufficient positive balance" means a dollar amount
9 greater than or equal to the monthly wireless 9-1-1 surcharge
10 amount.

11 "Wireless carrier" means a provider of two-way cellular,
12 broadband PCS, geographic area 800 MHZ and 900 MHZ Commercial
13 Mobile Radio Service (CMRS), Wireless Communications Service
14 (WCS), or other Commercial Mobile Radio Service (CMRS), as
15 defined by the Federal Communications Commission, offering
16 radio communications that may provide fixed, mobile, radio
17 location, or satellite communication services to individuals
18 or businesses within its assigned spectrum block and
19 geographical area or that offers real-time, two-way voice
20 service that is interconnected with the public switched
21 network, including a reseller of such service.

22 "Wireless enhanced 9-1-1" means the ability to relay the
23 telephone number of the originator of a 9-1-1 call and location
24 information from any mobile handset or text telephone device
25 accessing the wireless system to the designated wireless public
26 safety answering point as set forth in the order of the Federal

1 Communications Commission, FCC Docket No. 94-102, adopted June
2 12, 1996, with an effective date of October 1, 1996, and any
3 subsequent amendment thereto.

4 "Wireless public safety answering point" means the
5 functional division of an emergency telephone system board,
6 qualified governmental entity, or the Department of State
7 Police accepting wireless 9-1-1 calls.

8 "Wireless subscriber" means an individual or entity to whom
9 a wireless service account or number has been assigned by a
10 wireless carrier.

11 "Wireless telephone service" includes prepaid wireless
12 telephone service and means all "commercial mobile service", as
13 that term is defined in 47 CFR 20.3, including all personal
14 communications services, wireless radio telephone services,
15 geographic area specialized and enhanced specialized mobile
16 radio services, and incumbent wide area specialized mobile
17 radio licensees that offer real time, two-way service that is
18 interconnected with the public switched telephone network.

19 (Source: P.A. 93-507, eff. 1-1-04.)

20 (50 ILCS 751/17)

21 (Section scheduled to be repealed on April 1, 2008)

22 Sec. 17. Wireless carrier surcharge.

23 (a) Except as provided in Section 45, each wireless carrier
24 shall impose a monthly wireless carrier surcharge per CMRS
25 connection that either has a telephone number within an area

1 code assigned to Illinois by the North American Numbering Plan
2 Administrator or has a billing address in this State. In the
3 case of prepaid wireless telephone service, this surcharge
4 shall be remitted based upon the address associated with the
5 point of purchase, the customer billing address, or the
6 location associated with the MTN for each active prepaid
7 wireless telephone that has a sufficient positive balance as of
8 the last day of each month, if that information is available.
9 No wireless carrier shall impose the surcharge authorized by
10 this Section upon any subscriber who is subject to the
11 surcharge imposed by a unit of local government pursuant to
12 Section 45. The wireless carrier that provides wireless service
13 to the subscriber shall collect the surcharge set by the
14 Wireless Enhanced 9-1-1 Board from the subscriber. For mobile
15 telecommunications services provided on and after August 1,
16 2002, any surcharge imposed under this Act shall be imposed
17 based upon the municipality or county that encompasses the
18 customer's place of primary use as defined in the Mobile
19 Telecommunications Sourcing Conformity Act. The surcharge
20 shall be stated as a separate item on the subscriber's monthly
21 bill. The wireless carrier shall begin collecting the surcharge
22 on bills issued within 90 days after the Wireless Enhanced
23 9-1-1 Board sets the monthly wireless surcharge. State and
24 local taxes shall not apply to the wireless carrier surcharge.

25 (b) Except as provided in Section 45, a wireless carrier
26 shall, within 45 days of collection, remit, either by check or

1 by electronic funds transfer, to the State Treasurer the amount
2 of the wireless carrier surcharge collected from each
3 subscriber. Of the amounts remitted under this subsection, the
4 State Treasurer shall deposit one-third into the Wireless
5 Carrier Reimbursement Fund and two-thirds into the Wireless
6 Service Emergency Fund.

7 (c) The first such remittance by wireless carriers shall
8 include the number of customers by zip code, and the 9-digit
9 zip code if currently being used or later implemented by the
10 carrier, that shall be the means by which the Illinois Commerce
11 Commission shall determine distributions from the Wireless
12 Service Emergency Fund. This information shall be updated no
13 less often than every year. Wireless carriers are not required
14 to remit surcharge moneys that are billed to subscribers but
15 not yet collected. Any carrier that fails to provide the zip
16 code information required under this subsection (c) or any
17 prepaid wireless carrier that fails to provide zip code
18 information based upon the addresses associated with its
19 customers' points of purchase, customers' billing addresses,
20 or locations associated with MTNs, as described in subsection
21 (a) of this Section, shall be subject to the penalty set forth
22 in subsection (f) of this Section.

23 (d) Within 90 days after the effective date of this
24 amendatory Act of the 94th General Assembly, each wireless
25 carrier must implement a mechanism for the collection of the
26 surcharge imposed under subsection (a) of this Section from its

1 subscribers. If a wireless carrier does not implement a
2 mechanism for the collection of the surcharge from its
3 subscribers in accordance with this subsection (d), then the
4 carrier is required to remit the surcharge for all subscribers
5 until the carrier is deemed to be in compliance with this
6 subsection (d) by the Illinois Commerce Commission.

7 (e) If before midnight on the last day of the third
8 calendar month after the closing date of the remit period a
9 wireless carrier does not remit the surcharge or any portion
10 thereof required under this Section, then the surcharge or
11 portion thereof shall be deemed delinquent until paid in full,
12 and the Illinois Commerce Commission may impose a penalty
13 against the carrier in an amount equal to the greater of:

14 (1) \$25 for each month or portion of a month from the
15 time an amount becomes delinquent until the amount is paid
16 in full; or

17 (2) an amount equal to the product of 1% and the sum of
18 all delinquent amounts for each month or portion of a month
19 that the delinquent amounts remain unpaid.

20 A penalty imposed in accordance with this subsection (e)
21 for a portion of a month during which the carrier provides the
22 number of subscribers by zip code as required under subsection
23 (c) of this Section shall be prorated for each day of that
24 month during which the carrier had not provided the number of
25 subscribers by zip code as required under subsection (c) of
26 this Section. Any penalty imposed under this subsection (e) is

1 in addition to the amount of the delinquency and is in addition
2 to any other penalty imposed under this Section.

3 (f) If, before midnight on the last day of the third
4 calendar month after the closing date of the remit period, a
5 wireless carrier does not provide the number of subscribers by
6 zip code as required under subsection (c) of this Section, then
7 the report is deemed delinquent and the Illinois Commerce
8 Commission may impose a penalty against the carrier in an
9 amount equal to the greater of:

10 (1) \$25 for each month or portion of a month that the
11 report is delinquent; or

12 (2) an amount equal to the product of 1/2¢ and the
13 number of subscribers served by the wireless carrier.

14 A penalty imposed in accordance with this subsection (f)
15 for a portion of a month during which the carrier pays the
16 delinquent amount in full shall be prorated for each day of
17 that month that the delinquent amount was paid in full. Any
18 penalty imposed under this subsection (f) is in addition to any
19 other penalty imposed under this Section.

20 (g) The Illinois Commerce Commission may enforce the
21 collection of any delinquent amount and any penalty due and
22 unpaid under this Section by legal action or in any other
23 manner by which the collection of debts due the State of
24 Illinois may be enforced under the laws of this State. The
25 Executive Director of the Illinois Commerce Commission, or his
26 or her designee, may excuse the payment of any penalty imposed

1 under this Section if the Executive Director, or his or her
2 designee, determines that the enforcement of this penalty is
3 unjust.

4 (Source: P.A. 92-526, eff. 7-1-02; 93-507, eff. 1-1-04; 93-839,
5 eff. 7-30-04.)

6 (50 ILCS 751/35)

7 (Section scheduled to be repealed on April 1, 2008)

8 Sec. 35. Wireless Carrier Reimbursement Fund;
9 reimbursement.

10 (a) To recover costs from the Wireless Carrier
11 Reimbursement Fund, the wireless carrier shall submit sworn
12 invoices to the Illinois Commerce Commission. In no event may
13 any invoice for payment be approved for (i) costs that are not
14 related to compliance with the requirements established by the
15 wireless enhanced 9-1-1 mandates of the Federal Communications
16 Commission, (ii) costs with respect to any wireless enhanced
17 9-1-1 service that is not operable at the time the invoice is
18 submitted, or (iii) costs in excess of the sum of (A) the
19 carrier's balance, as determined under subsection (e) of this
20 Section, plus (B) 100% of the surcharge ~~of any wireless carrier~~
21 ~~exceeding 100% of the wireless emergency services charges~~
22 remitted to the Wireless Carrier Reimbursement Fund by the
23 wireless carrier under Section 17(b) since the last annual
24 review of the balance in the Wireless Carrier Reimbursement
25 Fund under subsection (e) of this Section, less reimbursements

1 paid to the carrier out of the Wireless Carrier Reimbursement
2 Fund since the last annual review of the balance under
3 subsection (e) of this Section, unless the wireless carrier
4 received prior approval for the expenditures from the Illinois
5 Commerce Commission.

6 (b) If in any month the total amount of invoices submitted
7 to the Illinois Commerce Commission and approved for payment
8 exceeds the amount available in the Wireless Carrier
9 Reimbursement Fund, wireless carriers that have invoices
10 approved for payment shall receive a pro-rata share of the
11 amount available in the Wireless Carrier Reimbursement Fund
12 based on the relative amount of their approved invoices
13 available that month, and the balance of the payments shall be
14 carried into the following months until all of the approved
15 payments are made.

16 (c) A wireless carrier may not receive payment from the
17 Wireless Carrier Reimbursement Fund for its costs of providing
18 wireless enhanced 9-1-1 services in an area when a unit of
19 local government or emergency telephone system board provides
20 wireless 9-1-1 services in that area and was imposing and
21 collecting a wireless carrier surcharge prior to July 1, 1998.

22 (d) The Illinois Commerce Commission shall maintain
23 detailed records of all receipts and disbursements and shall
24 provide an annual accounting of all receipts and disbursements
25 to the Auditor General.

26 (e) The Illinois Commerce Commission must annually review

1 the balance in the Wireless Carrier Reimbursement Fund as of
2 June 30 of each year and shall direct the Comptroller to
3 transfer into the Wireless Services Emergency Fund for
4 distribution in accordance with Section 25 of this Act any
5 amount in excess of the amount of deposits into the Fund for
6 the 24 months prior to June 30 less:

7 (1) the amount of paid and payables received by June 30
8 for the 24 months prior to June 30 as determined eligible
9 under subsection (a) of this Section;

10 (2) the administrative costs associated with the Fund
11 for the 24 months prior to June 30; and

12 (3) the prorated portion of any other adjustments made
13 to the Fund in the 24 months prior to June 30.

14 After making the calculation required under this
15 subsection (e), each carrier's available balance for purposes
16 of reimbursements must be adjusted using the same calculation.

17 (f) The Illinois Commerce Commission shall adopt rules to
18 govern the reimbursement process.

19 (Source: P.A. 93-507, eff. 1-1-04; 93-839, eff. 7-30-04.)

20 (50 ILCS 751/70)

21 (Section scheduled to be repealed on April 1, 2008)

22 Sec. 70. Repealer. This Act is repealed on April 1, 2013
23 ~~2008~~.

24 (Source: P.A. 93-507, eff. 1-1-04.)

25 Section 99. Effective date. This Act takes effect upon

1 becoming law.